

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

JEREMY JOHNSON, *et al.*,

Defendants.

Case No. 2:10-cv-02203-RLH-GWF

ORDER

This matter is before the Court on Defendants' Counsel's Motion for Reconsideration of Order [#268] Denying Motion to Withdraw as Attorney of Record, (#269), filed July 28, 2011.

BACKGROUND

Defense counsel requests that the Court reconsider its July 28, 2011 order denying a motion to withdraw (#265) without prejudice. Citing Local Rule IA 10-6(b), the Court denied the motion for failure to serve notice of the motion on the affected clients. Defense counsel, however, filed a certificate of service (#266) with the prior motion indicating that the motion was served on Travis Marker on behalf of Defendant Jeremy Johnson. The certificate of service did not indicate whether an appropriate officer, managing or general agent, or any other agent authorized by appointment or by law for the corporate defendants was served with notice of the motion to withdraw. Defense counsel filed an additional certificate of service (#270), along with this motion for reconsideration, indicating that Travis Marker had also accepted service on behalf of the following corporate defendants: Cloud Nine Marketing, CPA Upsell, Inc., Elite Debit, Inc., Internet Economy, Inc., Market Funding Solutions, Inc., Success Marketing, Inc., and I Works, Inc. Defense counsel states that "[Travis] Marker has been authorized [sic] agreed to accept service on behalf of the Johnson defendants while Johnson is detained." Defs' Mot. for Reconsideration (#269) at 2:4-5.

DISCUSSION

The court has the inherent power to revise, correct, and alter interlocutory orders at any time prior to entry of a final judgment. *See Sch. Dist. No. 5 v. Lundgren*, 259 F.2d 101, 105 (9th Cir. 1958); *Santamarina v. Sears, Roebuck & Co.*, 466 F.3d 570, 571-72 (7th Cir. 2006). This authority is governed by the doctrine that a court will generally not reexamine an issue previously decided by the same or higher court in the same case. *Lucas Auto. Eng'g, Inc. v. Bridgestone/Firestone, Inc.*, 275 F.3d 762, 766 (9th Cir. 2001); *United States v. Cuddy*, 147 F.3d 1111, 1114 (9th Cir. 1998). However, a court has discretion to depart from the prior order when (1) the first decision was clearly erroneous, (2) there has been an intervening change of law, (3) the evidence on remand is substantially different, (4) other changed circumstances exist, or (5) a manifest injustice would otherwise result. *Cuddy*, 147 F.3d at 1114.

Based on the representation from counsel that the individual served with notice of the motion to withdraw is authorized to accept service on behalf of the individual and corporate defendants, the Court finds that the notice requirement of LR IA 10-6(b) has been satisfied. Accordingly,

IT IS HEREBY ORDERED that Defendants' Counsel's Motion for Reconsideration of Order [#268] Denying Motion to Withdraw as Attorney of Record, (#269) is **granted**.

IT IS FURTHER ORDERED that Defendants' Counsel's Motion to Withdraw as Attorney of Record (#265) is **granted**.

IT IS FURTHER ORDERED that Defendant Jeremy Johnson shall have until Friday, August 19, 2011 to advise the Court if he will retain new counsel.

IT IS FURTHER ORDERED that Defendants Cloud Nine Marketing, CPA Upsell, Inc., Elite Debit, Inc., Internet Economy, Inc., Market Funding Solutions, Inc., Success Marketing, Inc., and I Works, Inc. must retain new counsel if they intend to continue to litigate this matter. A corporation may appear in federal court only through licensed counsel. *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). The corporate defendants shall have until Friday August 19, 2011 to advise the Court if they will retain new counsel.

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6 DATED this 5th day of August, 2011.

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